



# *COMMONWEALTH of VIRGINIA*

## *DEPARTMENT OF ENVIRONMENTAL QUALITY*

### NORTHERN REGIONAL OFFICE

13901 Crown Court, Woodbridge, Virginia 22193

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Matthew J. Strickler  
Secretary of Natural Resources

David K. Paylor  
Director

Thomas A. Faha  
Regional Director

**STATE WATER CONTROL BOARD  
ENFORCEMENT ACTION - ORDER BY CONSENT  
ISSUED TO  
ROBERT D. AND ANGELA S. WALK  
FOR  
THE WALK RESIDENCE SEWAGE TREATMENT PLANT  
VPDES Permit No. VA0089630**

### **SECTION A: Purpose**

This is a Consent Order issued under the authority of Va. Code § 62.1-44.15, between the State Water Control Board and Robert D. and Angela S. Walk regarding the Walk Residence Sewage Treatment Plant for the purpose of resolving certain violations of the State Water Control Law and the applicable permit and regulation.

### **SECTION B: Definitions**

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "305(b) report" means the report required by Section 305(b) of the Clean Water Act (33 United States Code § 1315(b)), and Va. Code § 62.1-44.19:5 for providing Congress and the public an accurate and comprehensive assessment of the quality of State surface waters.
2. "Board" means the State Water Control Board, a permanent citizens' board of the Commonwealth of Virginia, as described in Va. Code §§ 10.1-1184 and 62.1-44.7.

3. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia, as described in Va. Code § 10.1-1183.
4. "Director" means the Director of the Department of Environmental Quality, as described in Va. Code § 10.1-1185.
5. "Discharge" means discharge of a pollutant. 9 VAC 25-31-10
6. "Discharge of a pollutant" when used with reference to the requirements of the VPDES permit program means:
  - (a) Any addition of any pollutant or combination of pollutants to surface waters from any point source; or
  - (b) Any addition of any pollutant or combination of pollutants to the waters of the contiguous zone or the ocean from any point source other than a vessel or other floating craft which is being used as a means of transportation.
7. "DMR" means Discharge Monitoring Report.
8. "Effluent" means wastewater – treated or untreated – that flows out of a treatment plant, sewer, or industrial outfall.
9. "Facility" or "Plant" means the Walk Residence Sewage Treatment Plant located at 50 Randall Road in Stafford, Virginia, which treats and discharges treated sewage for the Walk family residence.
10. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 62.1-44.15.
11. "NRO" means the Northern Regional Office of DEQ, located in Woodbridge, Virginia.
12. "O&M" means operations and maintenance.
13. "Order" means this document, also known as a "Consent Order" or "Order by Consent," a type of Special Order under the State Water Control Law.
14. "Permit" means VPDES Permit No. VA0089630 which was re-issued under the State Water Control Law and the Regulation to Robert D. and Angela S. Walk on April 25, 2013 and which expires on April 24, 2018.
15. "Pollutant" means dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials (except those regulated under the Atomic Energy Act of 1954, as amended (42 USC § 2011 *et seq.*)), heat, wrecked or discarded equipment, rock, sand,

cellar dirt and industrial, municipal, and agricultural waste discharged into water... 9  
VAC 25-31-10.

16. "Pollution" means such alteration of the physical, chemical, or biological properties of any state waters as will or is likely to create a nuisance or render such waters (a) harmful or detrimental or injurious to the public health, safety, or welfare or to the health of animals, fish, or aquatic life; (b) unsuitable with reasonable treatment for use as present or possible future sources of public water supply; or (c) unsuitable for recreational, commercial, industrial, agricultural, or other reasonable uses, provided that (i) an alteration of the physical, chemical, or biological property of state waters or a discharge or deposit of sewage, industrial wastes or other wastes to state waters by any owner which by itself is not sufficient to cause pollution but which, in combination with such alteration of or discharge or deposit to state waters by other owners, is sufficient to cause pollution; (ii) the discharge of untreated sewage by any owner into state waters; and (iii) contributing to the contravention of standards of water quality duly established by the Board, are "pollution." Va. Code § 62.1-44.3.
17. "Regulation" means the VPDES Permit Regulation, 9 VAC 25-31-10 *et seq.*
18. "Robert D. and Angela S. Walk" means Mr. and Mrs. Walk, currently residents of Stafford County, Virginia. Robert D. and Angela S. Walk are a "person" within the meaning of Va. Code § 62.1-44.3.
19. "State Water Control Law" means Chapter 3.1 (§ 62.1-44.2 *et seq.*) of Title 62.1 of the Va. Code.
20. "State waters" means all water, on the surface and under the ground, wholly or partially within or bordering the Commonwealth or within its jurisdiction, including wetlands. Va. Code § 62.1-44.3.
21. "Va. Code" means the Code of Virginia (1950), as amended.
22. "VAC" means the Virginia Administrative Code.
23. "VPDES" means Virginia Pollutant Discharge Elimination System.

#### **SECTION C: Findings of Fact and Conclusions of Law**

1. Mr. and Mrs. Walk are the permit holders for and Wastemasters, Inc. operates the Plant. The Permit allows Mr. and Mrs. Walk to discharge treated sewage from the Plant, to an unnamed tributary to Accokeek Creek, in strict compliance with the terms and conditions of the Permit.

2. The receiving stream has not been monitored or assessed. A segment of Accokeek Creek 5.3 miles downstream from the Facility has been monitored. *E.coli* monitoring finds a bacterial impairment, resulting in an impaired classification for recreation use. A bacteria TMDL for the Accokeek Creek Watershed has been completed and approved. The aquatic and wildlife uses are considered fully supporting. The fish consumption use was not assessed.
3. In submitting their DMRs, as required by the Permit, Mr. and Mrs. Walk have indicated that they exceeded discharge limitations contained in Part I.A.1 of the Permit, for the monthly and weekly concentration average maximum limits for Total Phosphorus for the January through March, April through June, and October through December 2016 monitoring periods, and the January through March 2017 monitoring period, the monthly and weekly loading average maximum limit for Total Phosphorus for the January through March, April through June, and October through December 2016 monitoring periods, and the January through March 2017 monitoring periods, the monthly and weekly concentration average maximum limit for Total Suspended Solids for the April through June and the monthly concentration average for the October through December 2016 monitoring period, the monthly and weekly concentration average maximum limit and the monthly and weekly loading average maximum limit for Ammonia (April through June) for the April through June 2016 monitoring period and the monthly concentration average and weekly concentration average maximum limits for Ammonia (November-March) for the January through March 2017 monitoring period, and the monthly concentration average maximum limit for carbonaceous-biochemical oxygen demand for the October through December 2016 monitoring period. For exceedances occurring during the October through December 2016 monitoring period, the Plant's operator submitted an explanation with the discharge monitoring report that stated that upon his arrival to the Plant, he discovered that alum was not being fed due to a clogged line. Feed was restored; however, the lack of chemical addition impacted the quality of the effluent. the Plant operator also noted that multiple components of the system had been turned off and several tanks were at a level of potential overflow. The Plant operator returned all equipment to normal operations; however, the resulting surge flow created elevated carbonaceous-biochemical oxygen demand and total suspended solids in the Plant effluent.
4. NRO issued Notice of Violation No. W2016-08-N-0009 to Mr. and Mrs. Walk on August 22, 2016, for permit limit exceedances during the April through June 2016 monitoring period, Notice of Violation No. W2017-02-N-0007 was issued to Mr. and Mrs. Walk on February 16, 2017, for permit limit exceedances during the October through December 2016 monitoring period, and NOV No. W2017-05-N-0008 was issued on May 25, 2017 for the permit limit exceedances during the January through March 2017 monitoring period.
5. Mr. and Mrs. Walk's operating logs indicate that the Plant discharged treated wastewater from the Plant every day during 2016 except for July through March 2017.

6. Va. Code § 62.1-44.5 states that: “[E]xcept in compliance with a certificate issued by the Board, it shall be unlawful for any person to discharge into state waters sewage, industrial wastes, other wastes, or any noxious or deleterious substances.”
7. The Regulation, at 9 VAC 25-31-50, also states that except in compliance with a VPDES permit, or another permit issued by the Board, it is unlawful to discharge into state waters sewage, industrial wastes or other wastes.
8. Va. Code § 62.1-44.15(5a) states that a VPDES permit is a “certificate” under the statute.
9. Part I.A.1 of the Permit contains permit effluent limitations.
10. Part II.H of the Permit states that if any unusual or extraordinary discharge including a bypass or upset should occur from a treatment works and the discharge enters or could be expected to enter state waters, the permittee shall promptly notify, in no case later than 24 hours, the Department by telephone after the discovery of the discharge. This notification shall provide all available details of the incident, including any adverse effects on aquatic life and the known number of fish killed. The permittee shall reduce the report to writing and shall submit it to the Department within five days of discovery of the discharge in accordance with Part II.I.2. Unusual and extraordinary discharges include but are not limited to any discharge resulting from: 1. Unusual spillage of materials resulting directly or indirectly from processing operations; 2. Breakdown of processing or accessory equipment; 3. Failure or taking out of service some or all of the treatment works; and 4. Flooding or other acts of nature.
11. Part II.I of the Permit states that the permittee shall report any noncompliance which may adversely affect state waters or may endanger public health. 1. An oral report shall be provided within 24 hours from the time the permittee becomes aware of the circumstances. The following shall be included as information which shall be reported within 24 hours under this paragraph: a. Any unanticipated bypass; and b. Any upset which causes a discharge to surface waters. 2. A written report shall be submitted within 5 days and shall contain: a. A description of the noncompliance and its cause, b. The period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and c. Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance. The Board may waive the written report on a case-by-case basis for reports of noncompliance under Part II.I if the oral report has been received within 24 hours and no adverse impact on state waters has been reported. 3. The permittee shall report all instances of noncompliance reported under Parts II, I.1 or I.2, in writing, at the time the next monitoring reports are submitted. The reports shall contain the information listed in Part II.I.2.
12. Part II.Q states that the permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes effective plant performance,

adequate funding, adequate staffing, and adequate laboratory and process controls, including appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by the permittee only when the operation is necessary to achieve compliance with the conditions of this permit.

13. The Department has issued no permits or certificates to Mr. and Mrs. Walk other than VPDES Permit No. VA0089630.
14. The unnamed tributary to Accokeek Creek is a surface water located wholly within the Commonwealth and is a "state water" under State Water Control Law.
15. Based on DMRs submitted during 2016, and 2017, and documentation submitted with the October through December 2016 discharge monitoring report, the Board concludes that Mr. and Mrs. Walk have violated Part I.A.1, Part II.H, Part II.I, and Part II.Q of the Permit, 9 VAC 25-31-50, and § 62.1-44.15(5a), by discharging treated sewage from the Plant while concurrently failing to comply with the conditions of the Permit, as described in paragraph C(3) through C(14), above.
16. In order for Mr. and Mrs. Walk to return to compliance, DEQ staff and representatives of Mr. and Mrs. Walk have agreed to the Schedule of Compliance, which is incorporated as Appendix A of this Order.

#### **SECTION D: Agreement and Order**

Accordingly, by virtue of the authority granted it in Va. Code §§ 62.1-44.15, the Board orders Mr. and Mrs. Walk and Mr. and Mrs. Walk agree to:

1. Perform the actions described in Appendix A of this Order; and
2. Pay a civil charge of \$4,410.00 within 30 days of the effective date of the Order in settlement of the violations cited in this Order.

Payment shall be made by check, certified check, money order or cashier's check payable to the "Treasurer of Virginia," and delivered to:

Receipts Control  
Department of Environmental Quality  
Post Office Box 1104  
Richmond, Virginia 23218

Mr. and Mrs. Walk shall include its Federal Employer Identification Number (FEIN) with the civil charge payment **and** shall indicate that the payment is being made in accordance with the requirements of this Order for deposit into the Virginia Environmental Emergency Response Fund (VEERF). If the Department has to refer collection of moneys due under this Order to the

Department of Law, Mr. and Mrs. Walk shall be liable for attorneys' fees of 30% of the amount outstanding.

#### **SECTION E: Administrative Provisions**

1. The Board may modify, rewrite, or amend this Order with the consent of Mr. and Mrs. Walk for good cause shown by Mr. and Mrs. Walk or on its own motion pursuant to the Administrative Process Act, Va. Code § 2.2-4000 *et seq.*, after notice and opportunity to be heard.
2. This Order addresses and resolves only those violations specifically identified in Section C of this Order. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility; or (3) taking subsequent action to enforce the Order.
3. For purposes of this Order and subsequent actions with respect to this Order only, Mr. and Mrs. Walk admit the jurisdictional allegations, findings of fact, and conclusions of law contained herein.
4. Mr. and Mrs. Walk consent to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. Mr. and Mrs. Walk declare they have received fair and due process under the Administrative Process Act and the State Water Control Law and they waive the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to modify, rewrite, amend, or enforce this Order.
6. Failure by Mr. and Mrs. Walk to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. Mr. and Mrs. Walk shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other unforeseeable circumstances beyond its

control and not due to a lack of good faith or diligence on its part. Mr. and Mrs. Walk shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Mr. and Mrs. Walk shall notify the DEQ Regional Director verbally within 24 hours and in writing within three business days when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:

- a. the reasons for the delay or noncompliance;
- b. the projected duration of any such delay or noncompliance;
- c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
- d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director verbally within 24 hours and in writing within three business days, of learning of any condition above, which the parties intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto and any successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and Mr. and Mrs. Walk. Nevertheless, Mr. and Mrs. Walk agree to be bound by any compliance date which precedes the effective date of this Order.
11. This Order shall continue in effect until:
  - a. The Director or his designee terminates the Order after Mr. and Mrs. Walk have completed all of the requirements of the Order;
  - b. Mr. and Mrs. Walk petition the Director or his designee to terminate the Order after they have completed all of the requirements of the Order and the Director or his designee approves the termination of the Order; or
  - c. the Director or Board terminates the Order in his or its sole discretion upon 30 days' written notice to Mr. and Mrs. Walk.

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Mr. and Mrs. Walk from their obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.



12. Any plans, reports, schedules or specifications attached hereto or submitted by Mr. and Mrs. Walk and approved by the Department pursuant to this Order are incorporated into this Order. Any non-compliance with such approved documents shall be considered a violation of this Order.
13. Any documents to be submitted pursuant to this Order shall be submitted by Mr. and Mrs. Walk or an authorized representative of Mr. and Mrs. Walk.
14. This Order constitutes the entire agreement and understanding of the parties concerning settlement of the violations identified in Section C of this Order, and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this Order.
15. By its signature below, Mr. and Mrs. Walk voluntarily agree to the issuance of this Order.

And it is so ORDERED this 26<sup>th</sup> day of January, 201<sup>8</sup>7.



Thomas A. Faha NRO Regional Director  
Department of Environmental Quality

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Robert D. and Angela S. Walk voluntarily agree to the issuance of this Order.

Date: 4 Nov 2017 By: Robert D. Walk  
(Person)

Commonwealth of Virginia

City/County of Spotsylvania

The foregoing document was signed and acknowledged before me this 4 day of  
Nov, 2017, by Robert D. Walk.

[Signature]  
Notary Public

Registration No. \_\_\_\_\_

My commission expires: 12-31-20

Notary seal:



## **APPENDIX A SCHEDULE OF COMPLIANCE**

Mr. and Mrs. Walk shall:

1. Submit a plan and schedule to DEQ for review and comment within 30 days of execution of this Order with the steps Mr. and Mrs. Walk intend to take to come into compliance with Total Phosphorus limits. Once notified by DEQ, Mr. and Mrs. Walk shall implement said plan and schedule which will become enforceable pursuant to this Order.
2. Submit a plan to DEQ for review and comment within 30 days of execution of this Order which identifies and evaluates potential operations and maintenance improvements at the Plant, to include but not be limited to increased presence by the Plant operator, and increased maintenance by the permittee which shall be documented in a log that shall be kept onsite for DEQ review. Once notified by DEQ, Mr. and Mrs. Walk shall implement said plan which will become enforceable pursuant to this Order. Mr. and Mrs. Walk shall also submit copies of the Facility's operations and maintenance log with each quarterly Discharge Monitoring Report for the life of this Order.

### **1. DEQ Contact**

Unless otherwise specified in this Order, Mr. and Mrs. Walk shall submit all requirements of Appendix A of this Order to:

Attention: Enforcement  
VA DEQ –Northern Regional Office  
13901 Crown Court  
Woodbridge, VA 22193